

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

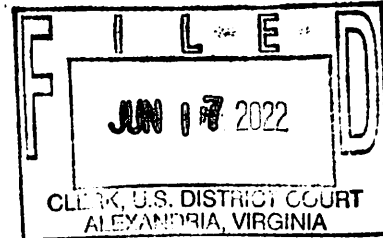
AMAZON.COM, INC. and AMAZON DATA
SERVICES, INC.,

Plaintiffs,

v.

WDC HOLDINGS LLC dba NORTHSTAR
COMMERCIAL PARTNERS; BRIAN
WATSON; STERLING NCP FF, LLC;
MANASSAS NCP FF, LLC; NSIPI
ADMINISTRATIVE MANAGER; NOVA
WPC LLC; WHITE PEAKS CAPITAL LLC;
VILLANOVA TRUST; CARLETON
NELSON; CASEY KIRSCHNER; ALLCORE
DEVELOPMENT LLC; FINBRIT
HOLDINGS LLC; CHESHIRE VENTURES
LLC; 2010 IRREVOCABLE TRUST; SIGMA
REGENERATIVE SOLUTIONS LLC;
CTBSRM, INC.; RODNEY ATHERTON;
DEMETRIUS VON LACEY; RENRETS,
LLC,

Defendants.



CASE NO. 1:20-CV-484-RDA-TCB

**DEFENDANT CASEY KIRSCHNER'S SUPPLEMENTAL RESPONSE IN OPPOSITION
TO PLAINTIFFS' MOTION TO COMPEL PRODUCTION OF DOCUMENTS AND
PRIVILEGE LOG**

Defendant Casey Kirschner respectfully submits this supplemental response to Plaintiffs Amazon.com, Inc. and Amazon Data Services, Inc. (collectively, "Amazon") Motion to Compel. Mr. Kirschner submits this supplemental response to update the Court on the ongoing efforts of his criminal counsel to determine the scope of the NDA he, and his prior counsel, signed. On June 16, 2022, Mr. Kirschner's criminal counsel spoke with the prosecutors at the U.S. Attorney's Office assigned to the parallel criminal investigation. They provided additional clarity to Mr. Kirschner's criminal counsel about what is, and is not, covered by the NDA and informed Mr. Kirschner's criminal counsel that the NDA does not cover the following documents in his criminal

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counsel's possession that have been sought by Amazon: (1) reverse proffers from the Government provided to Mr. Kirschner's counsel; (2) a statement written by an FBI agent and signed by Mr. Kirschner; (3) draft plea offers provided to Mr. Kirschner; and (4) general correspondence sent by the U.S. Attorney's Office during the pendency of the NDA.¹ As such, Mr. Kirschner intends to produce these documents to Amazon in due course. The only remaining documents in the possession of Mr. Kirschner's criminal counsel are emails provided as part of a taint review undertaken by the U.S. Attorney's office.² The prosecutors assigned to the parallel criminal investigation have informed Mr. Kirschner's criminal counsel that they are unable to discuss those emails since they are part of an ongoing taint review, and directed Mr. Kirschner's criminal counsel to contact the AUSA assigned to that taint review. Mr. Kirschner's criminal counsel has done so, and expects to speak with the AUSA in the coming days.

For these reasons and the reasons provided in Mr. Kirschner's initial response, Amazon's Motion to Compel is at best premature when it was filed, and at worst, moot. In either case it should be denied.

¹ On Friday, June 10, 2022 (before Amazon chose to file this Motion), Mr. Kirschner's criminal counsel informed counsel for Amazon that he expected to speak with the prosecutors assigned to the parallel criminal investigation this week once he was able to complete speaking with Mr. Kirschner's prior criminal counsel. (*See* Mem. in Supp. of Pls.' Mot. to Compel, Ex. 2). As Mr. Kirschner's criminal counsel stated it would, that has now occurred. As a result, Mr. Kirschner, and his criminal counsel, understand the scope of the NDA, and Mr. Kirschner is now free to produce all but a handful (of which Amazon already has access to) of the documents it has sought to compel in its motion. Had Amazon waited, its motion would have been unnecessary (or at most, significantly narrowed) and the parties and the Court would not have had to expend resources on a needless motion.

² Mr. Kirschner's criminal counsel understands that these remaining documents are the proceeds of emails obtained from one or more search warrants and consist of emails and other items from Mr. Kirschner's Gmail account and a large number of Amazon emails. Mr. Kirschner has already searched and produced responsive documents from his Gmail account, and presumably Amazon has access to its own internal emails that are part of this collection. As such, Amazon has either received in discovery, or has access to, all responsive documents that could be in this last category of documents that may be covered by the NDA. Nonetheless, once Mr. Kirschner's counsel is able to ascertain whether these documents are covered by the NDA, Mr. Kirschner will produce any documents that can be produced pursuant to the NDA that have not already been produced.

Dated: June 16, 2022

Respectfully submitted,
Casey Kirschner



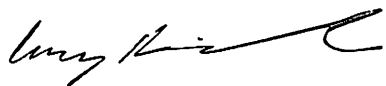
CERTIFICATION

I declare under penalty of perjury that:

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Prepared, or assisted in the preparation of, this document.

Casey Kirschner



Executed on:

□ 6-16-22

CERTIFICATE OF SERVICE

I hereby certify that on June 16, 2022, the foregoing was sent to the Court via overnight delivery and to foregoing via email:

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A handwritten signature in black ink, appearing to read 'Casey Kirschner', with a stylized, flowing script.

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